

Nicole S Barstow

49 Day St. Unit 213

Norwalk, CT 06854

[Barst.nik@gmail.com](mailto:Barst.nik@gmail.com)

203-952-7237

Pro Se Creditor

**UNITED STATES BANKRUPTCY COURT**

**SOUTHERN DISTRICT OF NEW YORK**

IN RE: ) CHAPTER 11  
CELSIUS NETWORK, LLC ET AL. ) CASE NO. 22-10964  
 ) (JOINTLY ADMINISTERED)

**Response to the Objections of the Debtor and Unsecured  
Creditors Committee for “The Motions” on Secured Creditor  
Status for Stablecoins, and Amendments to the Motion to  
Consider USDC Stablecoin Holders as Secured Creditors**

The undersigned, Nicole Barstow, submits this amended motion to include a request that all Unaccredited Investors in Celsius Network, LLC et al. to be allowed to have priority unsecured, rather than general unsecured, creditor status for the reasons outlined in this motion, and hereby submits her responses to the objections of the debtor and the UCC to “The Motions” as follows:

**1.) The motions to be allowed as secured creditors have legal merit despite the N.Y. State law that was cited by the debtors because of the doctrine of preemption.**

A.) Article 1 Section 8 of the U.S. Constitution authorizes Congress to enact “uniform laws on the subject of bankruptcy” such as the Federal Bankruptcy Code.

B.) Under the doctrine of preemption, when a problem arises between state and federal law, pursuant to the Supremacy Clause (Article 6 of the U.S. Constitution), federal law supersedes and the state or local law must give way. Therefore, the state law cited by the debtors regarding a lien needing to be perfected by a written voluntary agreement is invalid.

**2.) The undersigned, has perfected a lien on her interest in the estate through a financing statement and her and all other Stablecoin “Earn” account holders have perfected a lien through control of the account prior to the bankruptcy.**

A.) As noted by Jack Cel, in his related joinder motion, control of all Stablecoin accounts was done by the ability to deposit and withdraw, and close an account, before the bankruptcy petition.

B.) Pursuant to U.S.C, 506 (a) An allowed claim of a creditor secured by a lien on property in which the estate has an interest...”

(I.) The creditors have an interest in the estate because of the above-mentioned perfection methods of the lien pursuant to article 9 of the Uniform Commercial Code. The undersigned and other Stablecoin holders have made the interest in the estate public by the motions, and the undersigned UCC financing statement that she has submitted to this bankruptcy court.

(II.) Article 9 of the Uniform Commercial code states, “ A secured party has control of a deposit account if:

(2) the debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

(3) the secured party becomes the bank's customer with respect to the deposit account.

**(b) [Debtor's right to direct disposition.]**

A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

(III) The record that the debtor agrees to disposition of funds is the Terms of Use where they state we may deposit, withdraw or close the account at any time and we did not need prior consent for those transactions, if not in bankruptcy.

(IV.) The debtor and its counsel have referred to retail creditors as its customers.

**(3.) The Unsecured Creditors Committee stated that "The Motions" did not state why the liens are unavoidable. Pursuant to U.S.C 523 (C) Fed. R. Bankr. 4007 "Exceptions to Discharge" that makes these liens unavoidable include:**

**(2)"** for money, property, services...to the extent obtained by—

**(A)**

false pretenses, a false representation, or actual fraud...

(I.) The creditors in this case have put voluminous evidence on the record with this bankruptcy court in regards to the numerous false misrepresentations that occurred in the weekly AMA videos of CEO Alex Machinsky. These misrepresentations and false pretenses are facts that cannot be disputed. If it were not for these false misrepresentations, the undersigned and nearly every other creditor in this case would have ever put any money into a Celsius account. (See numerous letters/motions/responses written by Celsius creditors on the docket with Youtube links).

**(B)**use of a statement in writing—

**(i)**

that is materially false;

**(ii)**

respecting the debtor's or an insider's financial condition;



DESIST letters due to these violations. Right before filing bankruptcy, Celsius required all new accounts to be opened only by Accredited Investors. In addition, there was manipulation of the markets through the CEL token.

**(IV.) Pursuant to Section 510 (B) all equity holder status and Accredited Investor claims should be subordinated.** Due to the fact that many creditors are Unaccredited Investors, and the violations of these regulations of the SEC and the false misrepresentations, all Unaccredited Investors (creditors) of cryptocurrency other than Stablecoin (i.e BTC) should be given priority unsecured status. Unaccredited Investors have been injured by this bankruptcy as many have their life savings on the platform and little to no other financial means unlike the Accredited Investors. Unaccredited Investors did not have adequate protection pursuant to the SEC laws and regulations, and were not aware of the significance of, and could not withstand, the risks that were misrepresented to them by Celsius and its CEO Alex Machinsky.

**4.) Debtors who use cash collateral must provide adequate protection and have the consent of the secured creditor or the court pursuant to 11 U.S.C 363:**

**(a)** In this section, "cash collateral" means cash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents whenever acquired in which the estate and an entity other than the estate have an interest and includes the proceeds, products, offspring, rents, or profits of property..."

The debtor may make periodic lump sum cash payments, or provide additional or replacement lien that will result in the creditor's property interest being protected. **11 U.S.C 361**

**5.) Secured Creditors are entitled to the proceeds on cash collateral upon sale of the debtors' assets.**

**Proceeds** ",except as used in Section 9-609(b), means the following property:

(A) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(iii)

on which the creditor to whom the debtor is liable for such money, property, services, or credit reasonably relied; and

(iv)

that the debtor caused to be made or published with intent to deceive;...

(II.) The debtors most notable false statement in writing (but not the only one) was this letter <https://celsiusnetwork.medium.com/damn-the-torpedoes-full-speed-ahead-4123847832af> . Numerous statement in regards to the financial condition and having the "best risk management team in the world". **"Celsius continues to process withdrawals without delay.** We have not had any issues meeting withdrawal requests. Celsius honors all withdrawals as quickly as possible and works hard to support customers if and when there are delays. **Celsius has the reserves (and more than enough ETH) to meet obligations,** as dictated by our comprehensive liquidity risk management framework."

(6) "for willful and malicious injury by the debtor to another entity or to the property of another entity;"

(A)is for—

(i) "the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), any of the State securities laws, or any regulation or order issued under such Federal or State securities laws; or"

(ii) "common law fraud, deceit, or manipulation in connection with the purchase or sale of any security;"

(III.) Celsius has violated SEC laws and regulations since it's inception. There is no way to dispute this fact. The SEC sent numerous CEASE and



(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

**6.) The main reason (but not only reason) that non-algorithm Stablecoin holders (USDC, GUSD, and *possibly* USTC) hold secured claims to collateral because the Stablecoins were converted into cash to fund overcollateralized (with BTC or ETH etc), cash loans to retail platform co-debtors and the rehypothecated collateral that was loaned to institutional co-debtors thereto (whether further secured with institutional collateral or not).**

(I.) This was confirmed in the debtor's motion requesting to sell Stablecoin to fund business operations on page 7 paragraph 17 as highlighted in my original Motion to Consider USDC coin as Secured Creditors.

(II) I am amending the original motion to include a request to allow GUSD holders as Secured Creditors as well due to the above-mentioned reason.

**7.) Collateral that USDC/GUSD holders have an interest in include accounts receivables, including but not limited to, the Circle platform, as mentioned in the debtors' schedule D-1 attachment pg. 34 as "institutional customer liabilities."**

(I.) This is the cash (from Stablecoins) that was loaned to the retail platform borrowers (co-debtors) with the security interests of hypothecated collateral and the rehypothecated collateral (i.e BTC and ETH) that was given to the institutional co-debtors.

(II.) The accounts receivables' collateral claim includes both the hypothecated collateral posted by the retail platform borrowers as well as the rehypothecated collateral to the institutional borrowers (i.e BTC and ETH etc.).

**7.) Pursuant to 11 U.S. Code 509(C) any claim by a co-borrower and/or co-creditor in the "Earn" Program or otherwise, should be subordinated to the USDC and GUSD Stablecoin holders to repay the cash loan that was given, backed by the collateral that was posted (hypothecated and rehypothecated), including but not limited to, any cash, USDC, GUSDC, or other cryptocurrency that were loaned and/or credited to/from Defi protocols, institutional co-lenders/co-borrowers, etc.**

(I.) "The court shall subordinate to the claim of a creditor and for the benefit of such creditor an allowed claim, by way of subrogation under this section, or for reimbursement or contribution, of an entity that is liable with the debtor on, or that has secured, such creditor's claim, until such creditor's claim is paid in full, either through payments under this title or otherwise."

**8.) Stablecoins that can be redeemed for cash (USDC, GUSDC, etc.) are secured, whereas BTC in the "Earn" program and other cryptocurrencies are less secured due to the volatile nature of the transactions that were used by institutional lenders in high risk buying/trading/swapping cryptocurrencies without underlying asset collateral. Stablecoins were not used in high-risk trades that lacked an underlying asset collateral.**

(I.) Notwithstanding, BTC holders in the earn program, may have an interest in the BTC mining equipment and/or a purchase money security if BTC was used to buy more BTC. Also, illiquid staked ETH under contract may also have securitization due to a purchase money security since ETH was used to buy other ETH. These individuals may have a bi-furcated (for BTC and ETH) secured claim for these and other reasons.

**9.) The undersigned and other Stablecoin holders of USDC, GUSDC, etc. have an interest/lien/claim to the BTC mining assets and the BTC mining equipment collateral of Celsius because, one of the underlying asset classes that received cash loans from said Stablecoins was BTC.**



**10.) Stablecoin holders of USDC, GUSDC, etc. have a lien/interest in other cryptocurrency asset classes that received cash/stablecoin loans from Celsius for the same reason, such as ETH, Litecoin, Cardano, XRP etc.**

For the foregoing reasons, the undersigned respectfully request that the Motion and amended motion be granted and the relief is that the USDC, GUSDC, and other coins that can be redeemed for cash be allowed as secured creditors, and that all unaccredited investors be considered priority unsecured creditors.

Respectfully Submitted,



Nicole Barstow  
49 Day St. Unit 213  
Norwalk CT, 06854  
Pro Se Creditor



**Certificate of Service**

The undersigned, Nicole Barstow, hereby certifies that an electronic copy of this response/amended motion has been delivered on October 31, 2022.

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional) LIEN/SECURITY INTEREST (203) 952-7237	
B. E-MAIL CONTACT AT FILER (optional) BARST.NIK@GMAIL.COM	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)  NICOLE SUE BARSTOW 49 DAY ST APT 213 NORWALK, CT 06854	

Delaware Department of State  
U.C.C. Filing Section  
Filed: 05:45 PM 10/28/2022  
U.C.C. Initial Filing No: 2022 8975906  
Service Request No: 20223891749

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME CELSIUS NETWORK, LLC				
OR	1b. INDIVIDUAL'S SURNAME			
1c. MAILING ADDRESS CORPORATION TRUST CENTER, 1209 ORANGE ST.		CITY WILMINGTON	STATE DE	POSTAL CODE 19801
				COUNTRY US

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME CELSIUS LENDING, LLC				
OR	2b. INDIVIDUAL'S SURNAME			
2c. MAILING ADDRESS CORPORATION TRUST CENTER, 1209 ORANGE ST.		CITY WILMINGTON	STATE DE	POSTAL CODE 19801
				COUNTRY US

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME				
OR	3b. INDIVIDUAL'S SURNAME			
3c. MAILING ADDRESS 49 DAY ST, APT 213, NORWALK		CITY NORWALK	STATE CT	POSTAL CODE 06854
				COUNTRY US

4. COLLATERAL: This financing statement covers the following collateral:  
Cash Collateral (USDC/GUSDC is collateralized by this) Accounts receivable collateral Proceeds Collateral Stock/bonds collateral (USDC/GUSDC is collateralized by this) Investments Collateral Blanket Lien Collateral Gold Collateral BTC Mining Business Equipment Collateral Commodities Collateral Securities Collateral (hypothecation, rehypothecation collateral) Cryptocurrency collateral Stablecoin Collateral Property collateral Inventory Collateral Asset Collateral

5. Check <u>only</u> if applicable and check <u>only</u> one box. Collateral is <input type="checkbox"/> held in a Trust (see UCC1Ad, item 17 and Instructions) <input type="checkbox"/> being administered by a Decedent's Personal Representative				
6a. Check <u>only</u> if applicable and check <u>only</u> one box: <input type="checkbox"/> Public-Finance Transaction <input type="checkbox"/> Manufactured-Home Transaction <input type="checkbox"/> A Debtor is a Transmitting Utility				
6b. Check <u>only</u> if applicable and check <u>only</u> one box: <input type="checkbox"/> Agricultural Lien <input type="checkbox"/> Non-UCC Filing				
7. ALTERNATIVE DESIGNATION (if applicable): <input type="checkbox"/> Lessee/Lessor <input type="checkbox"/> Consignee/Consignor <input type="checkbox"/> Seller/Buyer <input type="checkbox"/> Bailee/Bailor <input type="checkbox"/> Licensee/Licenser				
8. OPTIONAL FILER REFERENCE DATA:				



## UCC FINANCING STATEMENT ADDITIONAL PARTY

### FOLLOW INSTRUCTIONS

18. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement, if line 1b was left blank because Individual Debtor name did not fit, check here ☐

18a ORGANIZATION'S NAME

CELSIUS NETWORK, LLC

OR

18b INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

19. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (19a or 19b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name)

19a ORGANIZATION'S NAME

CELSIUS NETWORKS LENDING, LLC

OR

19b INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

19c. MAILING ADDRESS

CORPORATION TRUST CENTER, 1209 ORANGE ST.

CITY

WILMINGTON

STATE

DE

POSTAL CODE

19801

COUNTRY

US

20. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (20a or 20b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name)

20a ORGANIZATION'S NAME

CELSIUS MINING, LLC

OR

20b INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

20c. MAILING ADDRESS

CORPORATION TRUST CENTER, 1209 ORANGE ST.

CITY

WILMINGTON

STATE

DE

POSTAL CODE

19801

COUNTRY

US

21. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (21a or 21b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

21a ORGANIZATION'S NAME

CELSIUS KEYFI, LLC

OR

21b INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

21c. MAILING ADDRESS

CORPORATION TRUST CENTER, 1209 ORANGE ST.

CITY

WILMINGTON

STATE

DE

POSTAL CODE

19801

COUNTRY

US

22. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (22a or 22b)

22a ORGANIZATION'S NAME

OR

22b INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

22c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

23. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (23a or 23b)

23a ORGANIZATION'S NAME

OR

23b INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

23c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

24. MISCELLANEOUS:

## UCC FINANCING STATEMENT ADDITIONAL PARTY

FOLLOW INSTRUCTIONS

18. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement, if line 1b was left blank because Individual Debtor name did not fit, check here ☐

18a. ORGANIZATION'S NAME <b>CELSIUS NETWORK, LLC</b>	
OR	
18b. INDIVIDUAL'S SURNAME	
FIRST PERSONAL NAME	
ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

19. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (19a or 19b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name)

19a. ORGANIZATION'S NAME <b>CELSIUS US HOLDING, LLC</b>			
OR			
19b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
19c. MAILING ADDRESS <b>CORPORATION TRUST CENTER, 1209 ORANGE ST.</b>		CITY <b>WILMINGTON</b>	STATE <b>DE</b>
		POSTAL CODE <b>19801</b>	COUNTRY <b>US</b>

20. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (20a or 20b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name)

20a. ORGANIZATION'S NAME <b>CELSIUS NETWORK, LIMITED</b>			
OR			
20b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
20c. MAILING ADDRESS <b>THE HARLEY BUILDING, 77-79 NEW CAVENDISH ST.</b>		CITY <b>LONDON</b>	STATE <b>GB</b>
		POSTAL CODE <b>W1W 6XB</b>	COUNTRY <b>GB</b>

21. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (21a or 21b) (use exact, full name, do not omit, modify, or abbreviate any part of the Debtor's name)

21a. ORGANIZATION'S NAME			
OR			
21b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
21c. MAILING ADDRESS		CITY	STATE
		POSTAL CODE	COUNTRY

22. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (22a or 22b)

22a. ORGANIZATION'S NAME			
OR			
22b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
22c. MAILING ADDRESS		CITY	STATE
		POSTAL CODE	COUNTRY

23. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (23a or 23b)

23a. ORGANIZATION'S NAME			
OR			
23b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
23c. MAILING ADDRESS		CITY	STATE
		POSTAL CODE	COUNTRY

24. MISCELLANEOUS: